

Report to:	EXECUTIVE
Relevant Officer:	Alan Cavill, Director of Communications and Regeneration
Relevant Cabinet Member:	Councillor Mark Smith Cabinet Member for Business, Enterprise and Job Creation
Date of Meeting:	5 December 2022

PROPOSED APPROPRIATION OF LAND ON THE SOUTH SIDE OF RIGBY ROAD BLACKPOOL

1.0 Purpose of the report:

1.1 This report seeks approval to appropriate for planning purposes, a parcel of land as shown edged red on the attached plan at Appendix 8a (Plan 1) (“the Subject Land”) pursuant to Section 122 of the Local Government Act 1972 (“LGA 1972”), for the delivery of the Revoe Community Sports Village project that is being supported with funding through the Town Deal programme and significant private investment through Blackpool Football Club. The project involves the regeneration of land adjacent to the Blackpool Football Club and the surrounding area. It includes the delivery of sports pitches for use by community groups and Blackpool Football Club and is inclusive of public realm space and will lead to further private investment in the Bloomfield Road stadium with the redevelopment of the east stand. (subject to necessary planning approvals).

2.0 Recommendation(s):

- 2.1 To delegate authority to the Director of Communications and Regeneration to undertake the appropriation processes in respect of the Subject Land and to agree the timing of the implementation and all matters relating to the appropriation, to deal with all matters arising from the decision and complete the appropriation process and conditional on the grant of Planning Permission subsequently to invoke section 203 and section 204 of the Housing and Planning Act 2016 (“HPA 2016”).
- 2.2 To authorise the Head of Legal Services to enter into any such documentation as may be necessary to give effect to or flowing from the appropriation for planning purposes of the Subject Land.

3.0 Reasons for recommendation(s):

3.1 i) To facilitate best use of the Subject Land; and

ii) Appropriation will enable the land to be used for delivery of the regeneration of land adjacent to the Blackpool Football Club and surrounding area and which includes the delivery of sports pitches for use by community groups and Blackpool Football Club and is inclusive of public realm space (subject to necessary planning approvals).

3.2 Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.3 Is the recommendation in accordance with the Council's approved budget? Yes

4.0 Other alternative options to be considered:

4.1 If after consideration of the matters set out in this report a decision is taken not to proceed with the proposed appropriation, this would mean that the Subject Land would be subject to further development options and which would require a further report to the Executive, for a decision.

4.2 The appropriation of land for planning purposes is required in any event to facilitate the delivery of the regeneration of land adjacent to the Blackpool Football Club and surrounding area and which includes the delivery of sports pitches for use by community groups and Blackpool Football Club and is inclusive of public realm space.

5.0 Council priority:

5.1 The relevant Council priority is: "The economy: Maximising growth and opportunity across Blackpool".

6.0 Background information

6.1 The Subject Land has been acquired by the Council in a number of tranches as and when the same had become available.

6.2 The majority of the Subject Land was acquired over time as individual parcels of land and it is noted that part of the Subject Land was purchased by the Council on 30 March 2009 from a third party. The land was acquired subject to Section 227 of the Town and Country Planning Act 1990 for land assembly in respect of a proposed college relocation. The relocation of the college has not happened to date, however alternative proposals for the college site have been considered. Most recently the Council has been working in collaboration with Blackpool Football Club to bring forward proposals for regeneration of the area in and around the club, which includes development of the Subject Land.

- 6.3 The proposals being brought forward by Blackpool Football Club have been supported by the Town Deal Fund Programme and were set out in the 'Blackpool Town Deal Revue Community Sports Village Business Case', which obtained approval of £6.54m from Town Deal Funding in November 2021.
- 6.4 Whilst it is understood that the Council acquired the parcels of land for site assembly for a proposed college the subsequent development of the Subject Land and surrounding land now proposed is significantly different from that previously proposed.
- 6.5 On this basis the Council are now seeking to appropriate the Subject Land for planning purposes for the use of the land for the delivery of the regeneration of land adjacent to the Blackpool Football Club and surrounding area and which includes the delivery of sports pitches for use by community groups and Blackpool Football Club and is inclusive of public realm space.
- 6.6 The Council acquires and holds property and land for various statutory purposes in order to perform its functions and continues to hold the land for that purpose unless it either disposes of the land or appropriates it in accordance with its statutory powers for another purpose. Appropriation is the means of transferring the purpose that a local authority holds land from one purpose to another.
- 6.7 As a consequence of the exercise of the Council's powers of appropriation, individual rights of affected third party owners and occupiers of nearby properties may be overridden.
- 6.8 Section 122 (1) of the Local Government Act 1972 enables the Council to appropriate to any other purpose for which the Council is authorised to acquire land by agreement, any land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation.
- 6.9 In considering whether to appropriate the Subject Land for leisure purpose, the Council must be satisfied that the land is no longer required for its current purpose.. This question is one solely for the Council in good faith to decide and requires the Council to examine whether the land is no longer needed in the public interest of the locality for its current purpose. There is no requirement for the land to have fallen into disuse before the Council may appropriate it for some other purpose and the fact that the Subject Land is currently used for the purposes for which it is held is not the sole consideration. The Council must have regard to the relative needs or uses for which the land has been or may be put and is entitled to conduct a balancing exercise between competing uses with the needs of the wider community at the forefront of that balancing exercise. The statutory tests set out above must be considered and there must be justification for the use of the powers to appropriate by a clear 'public interest' case. The loss of the land for its current use has been considered and it is considered that the loss can be justified by the need to repurpose and facilitate the redevelopment of the land.

- 6.10 Under section 203 of the Housing and Planning Act 2016, a local authority can override rights in land that has been appropriated for planning purposes, subject to payment of compensation under section 204 of the Housing and Planning Act 2016.
- 6.11 Under section 203 of the Housing and Planning Act 2016 the Council can erect, construct, or carry out or maintain any building or work on land that has been appropriated by it for planning purposes, even if that work or use involves an interference with a breach of a contractual restriction.
- 6.12 Under section 233(1) of Town and Country Planning 1990 Act (as amended), a local authority can dispose of appropriated land as the local authority believes is expedient to obtain one of the following:
- The best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out on it.
 - The erection, construction or carrying out on it of any buildings or works appearing to the authority to be needed for the proper planning of its area.
- 6.13 Does the information submitted include any exempt information? No

7.0 List of Appendices:

- 7.1 Appendix 8a – Plan 1 Subject Land

8.0 Financial considerations:

- 8.1 The land will not be used for site assembly for a college relocation and it is now being proposed for the alternative use as community sports provision. The appropriation of the land does not directly require any financial considerations. It is however relevant to note that the Council may derive an income or capital receipt from the Subject Land and this is subject to further negotiations. There are also costs attached to maintaining the Subject Land prior to the redevelopment being undertaken. It is anticipated that these costs will be contained within the approved Town Deal and Revoe scheme funding envelope.

9.0 Legal considerations:

- 9.1 In order for land to be appropriated as proposed in this report, the following points must be considered and determined by the Council;
- (a) Identification of the purpose for which the land is currently held;
 - (b) Whether the land is no longer required for that purpose;

Section 122 (1) of the Local Government Act 1972 enables the Council to appropriate to any other purpose for which the Council is authorised to acquire land by agreement, any land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation.

In order to appropriate land, the Council needs to be satisfied that the provisions of Section 122 of the Local Government Act 1972 are met, and in particular, that the land is no longer required for the purposes for which it was held immediately before appropriation.

The question as to whether the land is no longer required for the purpose for which it is held immediately before the appropriation is one solely for the Council in good faith to decide.

In addition to the question as to whether the land is no longer required for the purpose for which it is held immediately before the appropriation, the Council also needs to be satisfied that the land should be appropriated to planning purposes by applying the tests set out in section 226(1) and (1A) of the Town and Country Planning Act 1990. These are:

- (a) That the Council thinks that the appropriation will facilitate the carrying out of development, re-development or improvement on or in relation to the land and that such development, re-development or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social and/or environmental well-being of their area , and/or
- (b) That the appropriation is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.

10.0 Risk management considerations:

10.1 None.

11.0 Equalities considerations:

11.1 The purpose of this report is to consider the statutory process.

11.2 The appropriation of the Subject Land for planning purposes in order to engage section 203 of the Housing and Planning Act 2016 and to permit infringement of the Rights will involve interference with a person's right under the above mention Article. However, the right to peaceful enjoyment of possessions is qualified. The deprivation of a person's possessions is authorised where it is prescribed by law, is pursuant to a legitimate aim, is necessary in a democratic society and is proportionate.

11.3 The interference with an individual's private rights must be necessary and proportionate to the public interest of facilitating any future development. In this context, "proportionate" means that the interference must be no more than is necessary to achieve the identified legitimate aim of such interference. A fair balance is required to be struck between the rights of the individual and the rights of the community as a whole.

12.0 Sustainability, climate change and environmental considerations:

12.1 None.

13.0 Internal/external consultation undertaken:

13.1 Internal: Growth and Prosperity Programme Director, Growth and Prosperity Board, Finance, Legal, Community and Environmental Services.

13.2 The statutory procedures explained in this report direct that external consultation for appropriation for planning purposes is not required. To rely on S203 of the 2016 Act direct consultation and negotiation has been undertaken with directly affected parties.

14.0 Background papers:

14.1 None.

15.0 Key decision information:

15.1 Is this a key decision? No

15.2 If so, Forward Plan reference number:

15.3 If a key decision, is the decision required in less than five days? No

15.4 If **yes**, please describe the reason for urgency:

16.0 Call-in information:

16.1 Are there any grounds for urgency, which would cause this decision to be exempt from the call-in process? No

16.2 If **yes**, please give reason:

TO BE COMPLETED BY THE HEAD OF DEMOCRATIC GOVERNANCE

17.0 Scrutiny Committee Chairman (where appropriate):

Date informed: N/A

Date approved:

18.0 Declarations of interest (if applicable):

18.1

19.0 Executive decision:

19.1

20.0 Date of Decision:

20.1

21.0 Reason(s) for decision:

21.1

22.0 Date Decision published:

22.1

23.0 Executive Members in attendance:

23.1

24.0 Call-in:

24.1

25.0 Notes:

25.1